

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6351 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

R.S. SOLANKI,

Appearance:

MR PRANAV G DESAI for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/04/99

ORAL JUDGEMENT

1. This petition under Article 227 of the Constitution of India has been preferred by the Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation") against the order of the Assistant Labour Commissioner made on 27th June, 1995 on Application No.I.D.M.N.41/94 made under the proviso to clause (b) of Section 33(2).

2. It appears that the disciplinary action was initiated against the respondent-workman for misconduct amounting to misappropriation of Corporation's funds. Pursuant to the said disciplinary action, the workman was dismissed from service . In view of the dispute pending before the conciliation officer, an application for approval was made to the Assistant Labour Commissioner, the conciliation officer, under proviso to clause (b) of section 33(2). The workman was already paid one month's wages as provided under the said proviso. The application seeking approval was opposed by the workman, and pursuant to the objection lodged by the workman, the corporation submitted its reply on 11.10.94. The workman contended that the amount paid to the workman was short of one month's notice wages and that the disciplinary action initiated against the workman was vitiated for non-observance of principles of natural justice and fair play. The objection raised by the workman was accepted. It was observed under the impugned order, dated 27th June, 1995 that the corporation had not appeared before the concerned authority and had not submitted its defence. Therefore, the petition.

2. Mr.Desai, the Learned Advocate appearing for the petitioner has contended that the Corporation had submitted its reply on 11.10.94 which was sent by Registered Post Acknowledgment Due and the same was received by the office of the Labour Commissioner. The acknowledgment of the said Registered Post by the office of the Labour Commissioner is produced on the record. On perusal of the said acknowledgment, it appears that the same was received by the office of the Labour Commissioner on 15.11.94

3. In above view of the matter, it is apparent that the reply submitted by the corporation was not taken into consideration while making the impugned order, dated 27.6.95. The impugned order is, therefore, vitiated and requires to be quashed and set aside on that ground alone.

4. In above view of the matter, petition is allowed. The impugned order, deated 27.6.95 (Annexure "B" to the petition) is quashed and set aside. The concerned authority shall consider the application for approval made by the corporation afresh and shall take into consideration the reply submitted by the corporation. The corporation and the workman, both, shall be entitled to personal hearing and be at liberty to adduce further evidence, if any.

5. Rule is made absolute accordingly. There shall be no order as to costs.

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